UNITED NATIONS

General Assembly

FORTY-SEVENTH SESSION

Official Records

FIFTH COMMITTEE
38th meeting
held on
Tuesday, 8 December 1992
at 10 a.m.
New York

SUMMARY RECORD OF THE 38th MEETING

Chairman: Mr. DINU (Romania)

later: Mr. ZAHID (Morocco)
(Vice-Chairman)

Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. MSELLE

CONTENTS

AGENDA ITEM 111: SCALE OF ASSESSMENTS FOR THE APPORTIONMENT OF THE EXPENSES OF THE UNITED NATIONS (continued)

AGENDA ITEM 104: PROGRAMME BUDGET FOR THE BIENNIUM 1992-1993 (continued)

Programme budget implications of draft resolution A/C.1/47/L.18 concerning agenda item 61 (1)

Programme budget implications of draft resolution A/C.1/47/L.31/Rev.1 concerning agenda item 68

Programme budget implications of draft decision A/C.1/47/L.53 concerning agenda item 63

Programme budget implications of draft resolution A/C.1/47/L.2 concerning agenda item 62 (b)

Programme budget implications of draft resolution A/C.1/47/L.14 concerning agenda item 59

Implementation of General Assembly resolution 46/185: (a) Situation of the African Institute for Economic Development and Planning (IDEP); Strengthening of the Multinational Programming and Operational Centres (MULPOCs) of the Economic Commission for Africa

AGENDA ITEM 120: FINANCING OF THE ACTIVITIES ARISING FROM SECURITY COUNCIL RESOLUTION 687 (1991)

(a) UNITED NATIONS IRAQ-KUWAIT OBSERVATION MISSION

This record is subject to correction.
Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, Room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

92-58175 6524S (E)

Distr. GENERAL
A/C.5/47/SR.38
17 December 1992

ORIGINAL: ENGLISH

The meeting was called to order at 11.05 a.m.

AGENDA ITEM 111: SCALE OF ASSESSMENTS FOR THE APPORTIONMENT OF THE EXPENSES OF THE UNITED NATIONS (continued) (A/47/11)

1. The CHAIRMAN suggested that the Committee should formally request the Legal Counsel to give his views on the following questions, which had been raised in connection with the assessments of Belarus and Ukraine:

"1. Are Belarus and Ukraine 'new Member States' or are they, in terms of Article 3 of the United Nations Charter, original Members of the United Nations, having participated in its activities since its inception?

"2. Is the scale of assessments adopted by consensus for the period 1992, 1993 and 1994, as contained in General Assembly resolution 46/221, valid for Belarus and Ukraine?

"3. Is the scheme of limits - one of the guiding principles of the United Nations assessment methodology - applicable universally or selectively to the States Members of the United Nations in apportioning their assessments?

"4. Are the recommendations of the Committee on Contributions aimed at reviewing and drastically increasing the rates of assessment of Belarus and Ukraine in the middle of a three-year assessment period consistent with the provisions of General Assembly resolution 46/221 and rule 160 of the rules of procedure of the General Assembly?

"5. Does any of the above in any way affect the authority of the General Assembly, notwithstanding resolution 46/221 and rule 160, to decide to adopt a scale such as that contained in the report of the Committee on Contributions, which revises the scale adopted by resolution 46/221?"

2. It was so decided.

3. Mr. IRUMBA (Uganda) said that it was part of the normal duties of the Legal Counsel to respond to questions in the Committee, and it was thus unnecessary for the Committee to have to put such questions in a formal decision. His delegation had joined in the consensus on the understanding that it did not constitute a precedent.

4. Mr. WOOD (United Kingdom) said that his delegation supported the position taken by the Legal Counsel. The giving of legal advice was different from the provision of information, and it was a good practice for requests for formal legal advice to be approved by the organ in which the matter had arisen. If any individual delegation could seek legal advice, politicized and unbalanced requests might well result.

5. Ms. ROTHEISER (Austria), referring to the third question, said that her delegation did not agree that the scheme of limits was a "guiding" principle, but could otherwise join in the consensus.

6. Mr. FLEISCHHAUER (Under-Secretary-General, The Legal Counsel), replying to the questions addressed to him by the Committee, said, with regard to the first question, that, at the second plenary session of the San Francisco Conference in 1945, the Ukrainian Soviet Socialist Republic and the Byelorussian Soviet Socialist Republic had been invited to be initial Members of the proposed international organization, and at the end of the Conference those countries had signed the Charter and subsequently deposited their instruments of ratification. Since that time, they had never been expelled from the Organization nor readmitted to it. The recent constitutional changes, the change in the relationship between the two States and the former Union of Soviet Socialist Republics or changes in their official designations did not and could not transform them automatically into new Members of the Organization. There was no procedure for that, either in the Charter or in any other document. Consequently, Belarus and Ukraine were, and remained, "original Members" of the United Nations in terms of Article 3 of the Charter and were correctly listed as Members since 1945 in the official records of the Organization.

7. With respect to the second question, he said that paragraph 1 of General Assembly resolution 46/221 A provided for a scale of assessments for the contributions of Member States to the regular budget of the United Nations for the years 1992, 1993 and 1994, unless a new scale was approved earlier by the General Assembly on the recommendation of the Committee on Contributions, should the Committee, in accordance with its mandate and the rules of procedure of the Assembly, so recommend, on the basis of substantial changes in relative capacity to pay. Since the General Assembly had not proceeded to the approval of a new scale, as indicated in that paragraph, the scale of assessments contained in General Assembly resolution 46/221 A applied to all Member States listed therein, including Belarus and Ukraine.

8. Referring to the third question, he said that the scheme of limits was a mechanism to avoid excessive fluctuations in the rates of assessment of Member States. As such, it applied to the rates of assessment of all Member States; it did not, however, apply in the initial determination of the rate of assessment of a new Member State after its admission to membership.

9. With regard to the fourth question, he drew attention to the report of the Committee on Contributions (A/47/11), chapter IV of which was entitled "Assessment of new Member States". The chapter began by stating that the Committee on Contributions had considered the assessment of new Member States in the context of paragraph 1 of General Assembly resolution 46/221 A and rule 160 of the rules of procedure of the General Assembly (para. 39). Later in the chapter, the Committee on Contributions reviewed the manner in which the rates of assessment of Belarus and Ukraine had been determined since 1946 and stated that, in view of the unique manner in which those rates had

(Mr. Fleischhauer)

been determined in the context of the former Union of Soviet Socialist Republics and because of the special relationship which had existed among the 15 republics of the former USSR during the base period of the scale of assessments, the Committee on Contributions had decided to include Belarus and Ukraine in its considerations as well (para. 46). That paragraph appeared to suggest that, in the view of the Committee on Contributions, the manner in which the rates of assessment of Belarus and Ukraine had been determined and/or the fundamental change in the relations that had existed between those two States and the former Soviet Union, had led to a situation in which, irrespective of their status as founding Members of the United Nations, they were to be treated as new Member States for the purposes of assessment.

10. Such a hypothesis was legally untenable. Both rule 160 of the rules of procedure and resolution 46/221 required that all Member States should be assessed and given assessment rates. The two instruments were, however, silent on the method of arriving at the rate of assessment. While the manner in which the rates had been determined for Belarus and Ukraine during the past 47 years was certainly unique, the two States had obviously been assessed. Since the inception of the Organization, both States had continuously appeared in all relevant documents and statistics of the Secretariat, the Committee on Contributions and the General Assembly as assessed Member States, and a specific assessment rate had been attributed to them as to all other Member States. It could not, therefore, be said that there had been no assessment at all - which was all that rule 160 and resolution 46/221 required. Accordingly, it was a moot question whether, had there been no assessment at all, the treatment of those States as new Members might have been justified.

11. As to the change in the relations which had existed between Belarus and Ukraine and the former USSR, paragraph 46 of document A/47/11 appeared to imply that, in the view of the Committee on Contributions, that change was a fundamental change of circumstances which justified the treatment of the two States as new Members. Nothing in rule 160, however,provided a basis for such reasoning. Rule 160 referred to new Member States without any specifications or qualifying additions. That seemed to indicate that the term must be understood in the same sense as elsewhere in the rules of procedure of the General Assembly, namely, as referring to States newly admitted for membership under the procedures stipulated in Article 4 of the Charter of the United Nations, chapter XIV of the rules of procedure of the General Assembly and the relevant provisions of the provisional rules of procedure of the Security Council.

12. Furthermore, nothing in resolution 46/221 pointed to the admissibility of treating previously assessed Members of the Organization belatedly as new Member States. In that connection, it should be noted that the resolution had been adopted only on 20 December 1991, when the process of change had been well established in both Belarus and Ukraine.

(Mr. Fleischhauer)

13. Lastly, there was no precedent for treating a Member State as a new Member for the purposes of assessment other than at the time of its first assessment following its admission to the United Nations. Accordingly, he concluded that the treatment of Belarus and Ukraine as new Member States, as recommended by the Committee on Contributions, was not consistent with General Assembly resolution 46/221 and rule 160 of the Assembly's rules of procedure.

14. With regard to the fifth question, he said that it had caused him great difficulty. The question, as it had been reworded, presupposed that the General Assembly had the authority to adopt the assessment rates recommended by the Committee on Contributions. The answers which he had given to the first four questions had focused on the erroneous treatment of Belarus and Ukraine as new Member States by the Committee on Contributions. If the General Assembly did have the authority which was presupposed by the question, then such authority would not be affected by the answers which he had given. In his view, however, there was no such authority; the adoption of assessment rates for Belarus and Ukraine, as recommended in document A/47/11, would not be consistent with rule 160 of the rules of procedure of the General Assembly, even leaving aside his comments regarding the erroneous conclusions of the Committee on Contributions. The Fifth Committee, being composed of sovereign Member States, could, of course, decide not to apply rule 160 in the case under consideration. That, however, was a course of action which he, as Legal Counsel, could not recommend.

15. Mr. BATIOUK (Ukraine), Mr. BELIAYEV (Belarus) and Mr. AL-ARIMI (Oman) expressed appreciation to the Legal Counsel for his straightforward replies.

16. The CHAIRMAN said that the Committee had concluded its consideration of agenda item 111.

AGENDA ITEM 104: PROGRAMME BUDGET FOR THE BIENNIUM 1992-1993 (continued)

Programme budget implications of draft resolution A/C.1/47/L.18 concerning agenda item 61 (l) (A/47/7/Add.11; A/C.5/47/50)

17. Mr. SPAANS (Netherlands) said that the recommendation of the Advisory Committee in paragraph 9 of its report (A/47/7/Add.11) had been presented without adequate justification. His delegation could therefore not accept it. It supported the request made by the Secretary-General, which was entirely reasonable and, indeed, essential if the Register of Conventional Arms was to be a useful tool.

18. Mr. STITT (United Kingdom) agreed that the Advisory Committee's argument was not substantiated. The Committee should defer its consideration of the matter until ACABQ could provide an adequate explanation.

19. Mr. MERIFIELD (Canada) agreed that the matter should be deferred. He appealed for the establishment of a rule that 24 hours should elapse between

(Mr. Merifield, Canada)

the issuance of documentation and its consideration by the Committee in order to give delegations time to address what were often complex matters and to seek instructions where necessary.

20. Mr. IRUMBA (Uganda) said that the establishment of such a rule would delay the Committee's work, although it was necessary to have adequate time to reflect upon proposals. In such circumstances, it was important for the Chairman of the Advisory Committee to be present at Fifth Committee meetings.

21. The CHAIRMAN said that the time pressure was such that the Committee could not establish a 24-hour rule, but that every effort would be made to accommodate delegations. The Committee would defer consideration of the programme budget implications of draft resolution A/C.1/47/L.18 pending informal consultations.

Programme budget implications of draft resolution A/C.1/47/L.31/Rev.1 concerning agenda item 68 (A/47/Add.11; A/C.5/47/52)

22. The CHAIRMAN suggested that, on the basis of the statement of programme budget implications (A/C.5/47/52) and the recommendations of the Advisory Committee (A/47/7/Add.11, paras. 3 and 4), the Fifth Committee should inform the General Assembly that, should it adopt draft resolution A/C.1/47/L.31/Rev.1, no additional appropriations would be required under sections 37 or 41 of the programme budget for the biennium 1992-1993.

23. It was so decided.

Programme budget implications of draft decision A/C.1/47/L.53 concerning agenda item 63 (A/47/7/Add.11, A/C.5/47/63)

24. The CHAIRMAN suggested that, on the basis of the statement of programme budget implications (A/C.5/47/63) and the recommendations of the Advisory Committee (A/47/7/Add.11, paras. 2 and 4), the Fifth Committee should inform the General Assembly that, should it adopt draft decision A/C.1/47/L.53, no additional appropriations would be required under sections 37 or 41 of the programme budget for the biennium 1992-1993.

25. It was so decided.

26. Mr. COHEN (United States of America) drew the Committee's attention to his delegation's statement in explanation of its position in the First Committee in connection with the adoption of the draft decision.

Programme budget implications of draft resolution A/C.1/47/L.2 concerning agenda item 62 (b) A/47/7/Add.11; A/C.5/47/64)

27. Mr. IRUMBA (Uganda), supported by Mr. CHUINKAM (Cameroon), said that it might be preferable for the Committee to consider the matter in the context of

(Mr. Irumba, Uganda)

the review of travel and related entitlements for members of organs and subsidiary organs and staff members of the United Nations. If, however, the Committee wished to take a decision, he would like clarification as to what was meant by the words "at the present stage" in paragraph 16 of the Advisory Committee's report (A/47/7/Add.11).

28. The CHAIRMAN said that consideration of the programme budget implications of draft resolution A/C.1/47/L.2 would be deferred pending informal consultations.

Programme budget implications of draft resolution A/C.1/47/L.14 concerning agenda item 59 (A/47/7/Add.11; A/C.5/47/65)

29. Mr. ONWUALIA (Nigeria) proposed that, as the report of the Secretary-General (A/C.5/47/65) had been circulated only the day before, a decision on the question should be deferred.

30. It was so decided.

31. Mr. WOOD (United Kingdom) speaking on behalf of the European Community and its member States, said that the Committee had taken action on a number of statements of programme budget implications relating to draft resolutions which had been approved by other Main Committees, in a number of instances by vote. Prior to the adoption of General Assembly resolution 41/213 and the application of its budget provisions at the forty-fourth session of the General Assembly, it could have been expected that votes would have been requested in the Fifth Committee, too. Those Member States which were unable to support the substance of a proposal would thus have demonstrated their inability to support the corresponding funding, while those which supported a proposal would have voted in favour. Consistent with the spirit of the process of reform and renewal in the United Nations and the practice followed so successfully at previous sessions, none of the members of the European Community had requested a vote in connection with the decisions which had been taken. They wished to recall, however, the provisions of General Assembly resolutions 41/213 and 42/211 on the use and operation of the contingency fund, including its use and operation in respect of redeployment or modifications of existing activities and in respect of the deferral of additional activities. It was essential for continued confidence in the reform process that those provisions should be scrupulously observed. The Twelve reserved the right, and emphasized the need, to examine all possibilities for redeployment or deferral in the context of consideration of the consolidated statement to be submitted towards the end of the current session.

Implementation of General Assembly resolution 46/185: (a) Situation of the African Institute for Economic Development and Planning (IDEP); (b) Strengthening of the Multinational Programming and Operational Centres (MULPOCs) of the Economic Commission for Africa (A/C.5/47/53)

32. Mr. ACAKPO-SATCHIVI (Secretary of the Committee) read out a statement by the Chairman of the Advisory Committee on the question. As indicated in paragraph 10 of the report of the Secretary-General (A/C.5/47/53), in 1991 four Professional posts at the African Institute for Economic Development and Planning (IDEP) had been financed by the United Nations through a non-recurrent grant and, at its forty-sixth session, the General Assembly had decided to provide a non-recurrent grant of $850,000 for the 1992-1993 biennium to cover the costs of those posts. The Advisory Committee had been informed by representatives of the Secretary-General that, as a result of the 1990 review, the Institute had recast its role and moved away from traditional training to operational activities, in particular, short-term training, research, consultancy and advisory services, and networking. The Advisory Committee had noted the efforts made by the Institute to improve its financial situation (A/C.5/47/53, paras. 15-22). The Advisory Committee had also noted that he intended to review the need for the continuation of United Nations assistance to IDEP in the context of the preparation of the proposed programme budget for the biennium 1994-1995 (para. 23).

33. With regard to the Multinational Programming and Operational Centres (MULPOCs) of the Economic Commission for Africa, the Advisory Committee recalled its comments on the subject in its report on the financial reports and audited financial statements, and reports of the Board of Auditors (A/47/500) and, in particular, its request that the necessary corrective measures be undertaken as soon as possible to resolve the problems and to take the Board's findings into account when proposals for the programme budget for 1994-1995 were being prepared (para. 46).

34. Mr. IRUMBA (Uganda) said that the Committee had already taken a clear decision in favour of strengthening the MULPOCs and, in his view, the restructuring process should not be regarded as a reason to disregard that decision. He wondered, in that connection, if the Administration had any intention of further restructuring IDEP.

35. Mr. DUVAL (Office of Programme Planning, Budget and Finance) said that, as the Acting Controller had pointed out, the intention was that the restructuring should be carried out over a limited period of time. The Secretary-General's recommendation was intended to be limited to the redeployment of posts and, although it was clear that the strengthening of the MULPOCs was a priority goal, it was difficult to identify posts available for redeployment before the restructuring of ECA had been completed. That was why the Secretary-General had suggested that a decision on the question should be deferred until the presentation of the proposed programme budget for the biennium 1994-1995.

36. The CHAIRMAN suggested that the Committee should recommend to the General Assembly that it take note of the Secretary-General's proposals.

37. It was so decided.

38. Mr. Zahid (Morocco), Vice-Chairman, took the Chair.

AGENDA ITEM 120: FINANCING OF THE ACTIVITIES ARISING FROM SECURITY COUNCIL RESOLUTION 687 (1991):

(a) UNITED NATIONS IRAQ-KUWAIT OBSERVATION MISSION (A/47/637 and A/47/735)

39. The CHAIRMAN drew attention to the report of the Secretary-General on the financing of the United Nations Iraq-Kuwait Observation Mission (UNIKOM) (A/47/637), and the report of ACABQ (A/47/735).

40. Mr. MONAYAIR (Kuwait) expressed appreciation to the Chairman of ACABQ for the information contained in document A/47/735. With regard to paragraph 20 of that document, in which the Advisory Committee recalled that it had invited the Secretary-General to ascertain whether petrol, oil and lubricants could be made available by the host Governments free of cost or at less than the rate used in the estimates, he said that, in July 1992, his Government had agreed to make a voluntary contribution in the amount of $700,000, representing 50 per cent of the total cost of oil and oil products required for the Mission; that contribution was not mentioned in the report. His Government had also provided assistance in other areas, such as housing and transport. For example, it had paid $2.6 million a year since 1991 for the rental of storage area, $126,000 a year for the rental of a villa used by UNIKOM and $504,000 a year for the rental of other housing. Recently, the Mission had requested the expansion of its headquarters, which would require the extension of water pipes at a cost of approximately $10 million. All that information should be included in both the report of the Secretary-General and the report of ACABQ.

41. Mr. COHEN (United States of America) requested clarification from the Secretariat as to why the information just provided by the representative of Kuwait had not been included in document A/47/637.

42. Mr. HOSANG (Assistant Director of the Unit for Peace-keeping Matters and Special Assignments) said that, at the time the report had been prepared, neither the Field Operations Division nor the Office of Programming Planning, Budget and Finance had received a clear indication that reimbursement had been made to the Mission for actual amounts paid for oil and lubricants. With regard to the other voluntary contributions, his office had addressed inquiries to the Field Operations Division, but had received no additional information. The utilization of premises provided by the Government would automatically have reduced the estimates of expenditure submitted in the report of the Secretary-General. His office would contact the Permanent Mission of Kuwait to request that the relevant information be provided in writing.

43. Mr. MONAYAIR (Kuwait) said that, while he appreciated the clarification, he had not been referring to reimbursement, but to the commitment made by his Government to pay 50 per cent of the petrol and fuel costs. His delegation would like to see that contribution mentioned in the report.

44. The CHAIRMAN suggested that the Committee should hold informal consultations on the agenda item as soon as possible.

The meeting rose at 1 p.m.